

DIAA Board of Directors' Meeting Minutes
Thursday, January 17, 2013 – 1:00 p.m.
John W. Collette Education Resource Center

I. Opening

A. Call to Order

The meeting was called to order at 1:00 p.m. by Terre Taylor.

B. Roll Call

The following DIAA Board members were present: Terre Taylor, Gerald Kobasa, Joe Thomson, Craig Eliassen, Catherine Marvel, Laura Leone, Susan Coffing, Dr. Mark Holodick, Pam Love, Woody Long, Curtis Bedford, Edna Cale, Dr. Kevin Fitzgerald, Ron Eby, and Dr. Robert Walter. Kevin Charles, Executive Director, and Paula Fontello, Deputy Attorney General, were also in attendance. Dr. Rene Knight-Peguero, Harvey Hyland, and Dave Thomas were unable to attend.

C. Approval of Agenda

Mr. Kobasa made a motion to approve the agenda with the addendum. The motion was seconded by Dr. Fitzgerald and carried unanimously.

D. Approval of Minutes of DIAA December 13, 2012 Board Meeting

Mr. Eby made a motion to approve the minutes of the December 13, 2012 Board meeting. The motion was seconded by Mr. Kobasa and carried unanimously.

Mr. Charles introduced the new DIAA intern Morgan Rupp.

E. DIAA Financial Report

Mr. Charles provided updates on the reporting period of December 5, 2012 to January 10, 2013. Mr. Charles stated that the revenue to date was \$324,381.00 which was 44% of the projected revenue. Mr. Charles reported that income for the reporting period was \$56,000 which was primarily from fall tournaments. Mr. Charles explained that the expenditures to date are \$329,639 which was 45% of the projected expenditures. Mr. Charles reported that expenditures for this period were \$53,500. Mr. Charles reported that the expenditures were primarily from the fall tournament expense and salary and OEC's. Mr. Charles reported that DIAA is in the red at this time \$5,257.00 which is normal for this time of year. Mr. Kobasa made a motion to accept the financial report. The motion was seconded by Ms. Cale and carried unanimously.

II. Public Comment

None

III. A. Approval of Tournament Sanctions

Mr. Charles reported that there are 18 events to be sanctioned which include 5 basketball, 5 indoor track, 4 wrestling, 4 outdoor track which all appear to be in compliance with DIAA and NFHS regulations. Ms. Cale made a motion to approve the sanction events. The motion was seconded by Dr. Fitzgerald and carried unanimously.

D. Approval of Annual Report to General Assembly

Mr. Charles explained that the Delaware law requires that DIAA submit an annual report to the General Assembly and provided a copy of the 2012 report to all Board members. Mr. Charles stated that it includes regulation revisions, membership of DIAA, male and female student participation, composition of the Board, standing committees, funding, appeals, new initiatives, medical coverage at tournament events, and significant events. Ms. Leone made a motion to approve the report to the General Assembly. The motion was seconded by Mr. Eliassen and carried unanimously.

B. Request for Waiver of 1009.2.4 by AI DuPont HS for DIAA Case # 2013-1-1

Student and Student's mother were in attendance to present this request. Student's mother requested a closed hearing. There was no one present from the school. Mr. Bedford recused himself from this hearing. Mr. Kobasa made a motion to go into executive session for the purposes of protecting the pupil file as an exception to the Freedom of Information Act. The motion was seconded by Dr. Walter and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello explained that DIAA is a 20 member Board and has 19 voting members. Ms. Fontello further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Ms. Fontello explained that there are 13 voting members present and participating to consider this matter. The parties confirmed that they understood and wished to proceed with less than the full Board present. All persons participating in this hearing were sworn in. All the documentation was made part of the record and in addition to the testimony given the Board considered and relied upon the written documentation provided.

Dr. Walter made a motion to go into deliberation. The motion was seconded by Dr. Fitzgerald and carried unanimously. Mr. Eby made a motion to come

out of deliberation. The motion was seconded by Dr. Holodick and carried unanimously. Mr. Kobasa made a motion to come out of executive session. The motion was seconded by Ms. Cale and carried unanimously.

Mr. Kobasa made a motion to accept the request based upon the information provided establishing a hardship. The motion was seconded by Dr. Walter and carried by a vote of 13 – yes (Taylor, Kobasa, Cale, Eliassen, Leone, Marvel, Coffing, Love, Fitzgerald, Long, Holodick, Eby, and Walter) and 0 – no.

E. Consideration of “FreeRecruitingWebinar” Partnership Agreement

Mr. Charles explained that he presented the proposed agreement to the athletic directors and administrators in attendance at the morning meeting. Mr. Charles further explained that he was approached by an organization called FreeRecruitingWebinar.org and stated that the non-profit organization provided an educational webinar on the college recruiting process for parents, athletes and school staff. Mr. Charles explained that the site was created to help parents and students be better informed about the college recruiting process. Mr. Charles questioned how the company funded itself and was told that money was raised through grants and sponsorships. Mr. Charles commented that he was informed that this was simply an education tool. Mr. Charles stated that the webinar is about an hour long and is satisfied that this is a good tool. In response to concerns and questions by the Board Mr. Charles stated that he was going to pursue legal review and request that the company make some changes to the agreement including to add a termination clause that states if the site is not kept up to date; and if it becomes a for fee based company; or if the company was sold the agreement can be terminated. Mr. Charles commented that it is endorsed by other states as well. Mr. Eby made a motion to approve the agreement subject to legal review and addressing the concerns raised. The motion was seconded by Ms. Cale and carried unanimously.

III. C. Interim Waivers by Executive Director

1. 1009.2.7 by Smyrna High School for DIAA – 2013-1-2

Ms. Fontello advised that this matter is being considered under modified procedures with the consent of the parent and that the parent has requested a closed hearing for the purpose of protecting the privacy of the pupil file. Ms. Cale and Mr. Eby recused themselves. Mr. Kobasa made a motion to go into executive session for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Mr. Eby and carried unanimously.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello explained that this request is being conducted under modified hearing procedures with the consent of the parents and that there is a signed consent from the student’s parent in this case in order to proceed under these modified procedures. Ms. Fontello advised that a

full hearing is scheduled for the February 14, 2013 meeting should it be necessary. Ms. Fontello explained that Mr. Charles deviated from the normal procedures due to a lengthy agenda and the annual meeting that was anticipated to take up a great deal of time and in an attempt to accommodate the large number of waiver requests received for winter sport athletes. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to be immediately eligible to participate and the second to allow the student and parent not to appear for the hearing today. It was confirmed for the record that Mr. Charles remained under oath. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Ms. Leone made a motion to go into deliberation. The motion was seconded by Dr. Walter and carried unanimously. Dr. Walter made a motion to come out of deliberation. The motion was seconded by Dr. Holodick and carried unanimously. Mr. Kobasa made a motion to come out of executive session. The motion was seconded by Mr. Bedford and carried unanimously.

Dr. Fitzgerald made a motion to grant the waiver and approve the two interim waivers granted by the Executive Director based on evidence presented the Student had met his burden of establishing a hardship and the information provided regarding the hardships that were beyond the control of the student. The motion was seconded by Mr. Kobasa and carried by a vote of 13 – yes (Taylor, Bedford, Kobasa, Thomson, Eliassen, Leone, Marvel, Coffing, Love, Fitzgerald, Long, Holodick, and Walter) and 0 – no. Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for February 14, 2013 is cancelled.

2. 1009.2.4 by Appoquinimink High School, DIAA-2013—1-3

Ms. Fontello advised that this matter is being considered under modified procedures with the consent of the parent and that the parent has requested a closed hearing for the purpose of protecting the privacy of the pupil file. Mr. Eby made a motion to go into executive session for the purpose of protecting the privacy of the pupil file as an exception to FOIA. The motion was seconded by Mr. Bedford and carried unanimously. Ms. Cale recused herself from the proceedings.

While in executive session, the hearing proceeded, evidence was taken, and the Board held deliberations. Ms. Fontello explained that this request is being conducted under modified hearing procedures with the consent of the parents and that there is a signed consent from the student's parent in this case in order to proceed under these modified procedures. Ms. Fontello advised that a full hearing is scheduled for the February 14, 2013 meeting should it be

necessary. Ms. Fontello explained that Mr. Charles deviated from the normal procedures due to a lengthy agenda and the annual meeting that was anticipated to take up a great deal of time and in an attempt to accommodate the large number of waiver requests received for winter sport athletes. Ms. Fontello explained that Mr. Charles granted two interim waivers one allowing the student to be immediately eligible to participate and the second to allow the student and parent not to appear for the hearing today. It was confirmed for the record that Mr. Charles remained under oath. The waiver packet and supporting documents, the letter sent to the parents from Mr. Charles, and the signed consent were made part of the record. Evidence was taken and deliberations were held.

Dr. Fitzgerald made a motion to go into deliberation. The motion was seconded by Ms. Leone and carried unanimously. Mr. Eby made a motion to come out of deliberation. The motion was seconded by Dr. Fitzgerald and carried unanimously. Mr. Eby made a motion to come out of executive session. The motion was seconded by Mr. Bedford and carried unanimously.

Dr. Fitzgerald made a made a motion to grant the waiver and approve the two interim waivers granted by the Executive Director based on evidence presented the Student had met her burden of establishing a hardship and the information provided regarding the hardships that were beyond the control of the student. The motion was seconded by Mr. Eby and carried by a vote of 14 – yes (Taylor, Bedford, Kobasa, Thomson, Eliassen, Leone, Marvel, Coffing, Love, Fitzgerald, Long, Holodick, Eby, and Walter). Ms. Fontello noted for the record that the waiver request is granted and the full hearing scheduled for February 14, 2013 is cancelled.

IV. Executive Director Report

A. Legal Report

Ms. Fontello reported that the appeal pending before the State Board of Education was finalized and the SBE adopted the hearing officer's proposed decision and affirmed DIAA's decision.

B. 2012 Board Hearing Report

Mr. Charles reported on the number of hearings that came before the Board last year. Mr. Charles stated that there were 31 actual hearings and 23 interim requests. Mr. Charles commented that this was less than in years past. Ms. Fontello clarified that she had prepared approximately 62 written decisions including the non-eligibility waiver requests.

C. Update on Board Appointments

Mr. Charles shared with the Board an email to the Governor's office which detailed appointments due to be made in 2013.

D. Fall Tournament Report

Mr. Charles reviewed the fall tournament report and commented that it was a good fall season. Mr. Charles reported that some of the tournaments were delayed due to Hurricane Sandy. Mr. Charles reported that the volleyball final was moved to Monday due to a conflict with the University of Delaware but that the attendance was great.

E. Sportsmanship Committee Report – Tommie Neubauer

Mr. Neubauer provided a summary of DIAA Sportsmanship Committees December meeting. Mr. Neubauer reported that there was one incident at the end of the fall tournament and stated that the school took swift and decisive action. Mr. Neubauer also reported that the number of yellow cards in soccer was down considerably. Mr. Neubauer stated that no school exceeded the ceiling of 20 yellow cards this season.

F. Volleyball Tournament Report

Mr. Charles reported on the Volleyball tournament report he received from Debbie Corrado.

G. Field Hockey Tournament Report

Mr. Charles reported on the Field Hockey Tournament Report he received from Sharyn Wingate.

H. NIAAA Annual Meeting – Tommie Neubauer

Mr. Neubauer stated that Delaware had a large showing at the NIAAA Conference with 21 athletic directors, 2 DIAA staff members, 1 DIAA Board member, and 1 retired athletic director. Mr. Neubauer stated that Mike Hart received the NIAAA Distinguished Service Award.

I. NFHS Winter Meeting

Mr. Charles stated that there was a presentation by the NCAA at this meeting regarding on the new eligibility rules for incoming freshman. Mr. Charles also stated that there was a presentation on the PSA's which promote the value

added of extracurricular activities with a focus on athletics. Mr. Charles reported that the NFHS contracted with Indiana State to conduct a study of the benefits of participation in extracurricular activities. Mr. Charles also commented on a presentation by LRG (Licensing Resource Group) as their NFHS high school apparel merchandising program. The program contracts with retailers to sell high school apparel and return 50% of the proceeds to participating schools.

Mr. Charles commented on Web streaming and stated that the NFHS is working on an agreement with a company to broadcast high school state tournament events on cable & via web streaming. Mr. Charles stated that this has the potential to bring exposure to all high school sports; enable state associations to control our message; and, pay a large return.

Mr. Charles also commented that the issue of transgender athletes was discussed.

Ms. Taylor commented that the Rules and Regulations Committee met and formed a sub-committee to review the coaching out of season rule.

V. Other

VI. Public Comment

None.

VII. Adjournment

Mr. Eby made a motion to adjourn at 2:55 p.m. The motion was seconded by Mr. Eliassen and carried unanimously.

Tina Hurley